

United States District Court

For the Northern District of California

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6 UNITED STATES OF AMERICA,

No. CR 09-0320 WHA

7 Plaintiff,

8 v.

9 RENE NAVAREZ,

10 Defendant.

11 **ORDER DENYING MOTION TO**
REDUCE SENTENCE

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13 On March 18, 2016, defendant, represented by counsel, moved for a reduction in
14 sentence pursuant to Amendment 782 of the Sentencing Guidelines Manual. The motion
15 requested a reduction from his original sentence of 144 months to 120 months. The United
16 States Probation Office also recommended a reduction to 120 months. The government
17 opposed any reduction to defendant's original sentence. On April 7, 2016, the Court reduced
18 defendant's sentence to 126 months.

19 Defendant now moves pro se for a further reduction to his sentence pursuant to
20 Amendments 750 and 759. Defendant argues that "[h]ad he first filed a reduction motion based
21 on Amendment 750 and then one based on Amendment 782, his present sentence would have in
22 all likelihood been 120 months. . . . Navarez asks this Court not to penalize him for failing to file
23 his motions in chronological order and reduce his sentence to 120 months." Defendant
24 concedes that 120 months is the statutory minimum sentence. Defendant therefore asks for an
25 additional six month reduction in his sentence to 120 months.

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1 In response, the United States Probation Office asserts that defendant “may not file
2 successive motions for relief based on the same amendment.” The Court need not reach the
3 issue of whether or not defendant may file a successive motion to reduce his sentence as the
4 Court concludes that a further reduction of defendant’s sentence is not warranted here. Because
5 defendant’s conviction carries a ten-year mandatory minimum, defendant’s amended guideline
6 “range” is 120 months under both Amendment 782 and Amendment 750. *See U.S.S.G.*
7 5G1.1(c)(2). At the time of defendant’s earlier motion, the Court considered defendant’s
8 request for a reduction to 120 months, as well as Probation’s recommendation of the same, and
9 determined that a reduction to 120 months was not warranted. Instead, the Court reduced
10 defendant’s sentence to 126 months. A further reduction is not warranted. Therefore,
11 defendant’s motion is **DENIED**.

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IT IS SO ORDERED.

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Dated: September 22, 2016.

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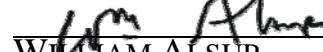
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WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE